CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

CENTRAL EXCISE APPEAL NO.20286 OF 2017

(Arising out of Order-in-Original No.BEL-EXCUS-000-COM-BKK-032-16-17 (CX) dated 16.11.2016 passed by the Commissioner of Central Excise and Customs, Belgaum)

Commissioner of Central Excise, Customs and Service Tax-Belgaum,
No.71, Club Road,
Central Excise Building,
Belgaum-590 001.

Appellant(s)

VERSUS

M/s. Gujarat Nre Coke Ltd.,
Road No.16, 1st Cross,
KIADB Belur Industrial Area,
Dharwad-580 011.

Respondent(s)

APPEARANCE:

Ms. Arpitha. S, Joint Commissioner for the Appellant.
None appeared for the appellant.

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order No. 22050 /2025

DATE OF HEARING: 01.08.2025
DATE OF DECISION: 01.08.2025

PER : D.M. MISRA

This is an appeal filed by the Revenue against Order-in-Original No.BEL/EXCUS/000/COM/BKK/032/16-17(CX) dated 09.11.2016 passed by the Commissioner of Central Excise and Customs, Belgaum.

2. Briefly stated the facts of the case are that the appellant are engaged in the manufacture of MET Coke of various grades and Coking Coal falling under Chapter 27 of the Central Excise Tariff Act, 1985. They availed cenvat credit on inputs as well as capital goods under the Cenvat Credit Rules, 2004. During the course of audit of their records, it was noticed that they have availed inadmissible cenvat credit of Rs.64,52,643/- on input services viz. outward transport service for delivery of the MET coke during the period May 2012 to June 2015; accordingly, show-cause notice was issued on 16.10.2015 for recovery of the said amount of credit along with interest and penalty. On adjudication, learned Commissioner dropped the proceedings. Hence, the present appeal by the Revenue.

3. Heard the learned AR for the Revenue and perused the records.

4. We find that the learned Commissioner after analysing the relevant purchase orders by the purchasers i.e. JSW Steels Ltd., Ultratech Cement Ltd., Adam & Coal, KIOCL Ltd., SAIL etc. observed that the sale of goods by the appellant was on FOR destination basis, thereby the transportation charges has been paid by the appellant; hence the sale of the goods was completed at the place of delivery i.e. at the customers' premises; accordingly, cenvat credit availed on outward transportation of goods is admissible. Even though in the present appeal, the Revenue assailed the said findings of the learned Commissioner, no contrary evidence has been placed on record by the Revenue to rebut the finding of the fact that the place of delivery is other than on FOR basis. In absence of contrary evidence, we find that the finding of facts recorded by the learned Commissioner holds good and accordingly the appeal filed by the Revenue is devoid of merit. Consequently, the

impugned order is upheld and appeal filed by the Revenue is dismissed.

(Operative part of this Order was pronounced in Open Court
on conclusion of the hearing)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

Raja…